

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

ALVENIA CORBETT,

Plaintiff,

v.

Case No. 8:19-cv-488-CEH-AEP

KILOLO KIJAKAZI,  
Acting Commissioner of the  
Social Security Administration,<sup>1</sup>

Defendant.

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**ORDER**

This cause comes before the Court upon Plaintiff's First Amended Unopposed Motion for Award of Attorney's Fees Pursuant to 42 U.S.C. § 406(b) (Doc. 34). On January 23, 2020, upon consideration of the undersigned's Report and Recommendation (Doc. 19), this Court entered an Order adopting the Report and Recommendation and reversing and remanding the decision of the Commissioner under sentence four of 42 U.S.C. § 405(g) (Doc. 20). Thereafter, the Clerk entered judgment in favor of Plaintiff (Doc. 21). As a result of the favorable decision, the Court previously awarded Plaintiff's fees in the amount of \$2,430.78

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<sup>1</sup> Kilolo Kijakazi is now the Commissioner of Social Security. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Acting Commissioner Kilolo Kijakazi should be substituted for Commissioner Andrew M. Saul as the defendant in this matter. No further action needs to be taken to continue this matter by reason of the last sentence of section 205(g) of the Social Security Act. 42 U.S.C. § 405(g).

pursuant to the EAJA (Docs. 22,23,24). Plaintiff's counsel now seeks payment of fees in the amount of \$10,919.72 pursuant to 42 U.S.C. § 406(b), with a credit of \$6,000 for the amount already paid to Plaintiff's attorney on February 16, 2021.

Under 42 U.S.C. § 406(b), when a court renders a judgment favorable to a Social Security claimant who was represented before the court by counsel, the court may allow a reasonable fee for such representation, not to exceed twenty-five percent of the total past-due benefits to which the claimant is entitled. 42 U.S.C. § 406(b)(1)(A). A plaintiff's counsel may recover attorneys' fees under both 42 U.S.C. § 406(b) and EAJA. *Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002). The plaintiff's attorney must, however, refund to the plaintiff the amount of the smaller fee. *Id.* Upon review of the fee agreement (Doc. 34) and the itemization of services rendered by counsel (Doc. 22), the Court determines that an award of fees in the amount of \$10,919.72 is reasonable and appropriate.

ORDERED:

1. Plaintiff's request for an award of attorney's fees under 42 U.S.C. § 406(b) (Doc. 34) is GRANTED.

2. Plaintiff's counsel is awarded fees in the amount of \$10,919.72 pursuant to 42 U.S.C. § 406(b), with a credit of \$6,000 that was already received by the undersigned attorney.

DONE AND ORDERED in Tampa, Florida, on this 22nd day of July, 2021.



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ANTHONY E. PORCELLI  
United States Magistrate Judge

cc: Counsel of Record